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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,681	01/05/2007	Maurits Van Camp	13810-17	7136
45473 7590 02/19/2010 BRINKS, HOFER, GILSON & LIONE P.O. BOX 1340 MORRISVILLE, NC 27560				
EXAMINER				
MC GUTHRY BANKS, TIMA MICHELE				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
02/19/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,681

Applicant(s)

VAN CAMP ET AL.

Examiner

TIMA M. MCGUTHRY-BANKS

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 15, 16, 19 and 23 is/are rejected.
- 7) ☒ Claim(s) 13, 14, 17, 18, 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

Claims 1-11 are cancelled, Claims 12-20 are as previously presented, Claims 21 and 22 are withdrawn and Claim 23 is new.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 12, 15, 16, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Player et al (US 5,356,186).

Player et al is applied as discussed in the office action mailed 6/11/2009 for Claims 12, 15, 16 and 19. Regarding new Claim 23, Player et al teaches recovering the metals in the slag (column 1, lines 14-20).

Response to Amendment

The declaration under 37 CFR 1.132 filed 2/4/2010 is sufficient to overcome the rejection of claims 12-15 based upon the rejection under 35 U.S.C. 103 (a) over Fugleberg with respect to the amount of Fe.

The declaration under 37 CFR 1.132 filed 2/4/2010 is insufficient to overcome the rejection of claims 12, 15, 16, and 19 based upon the rejection under 35 U.S.C. 103 (a) over Player et al as set forth in the last Office action because of the following: applicant argues that

Player et al teaches recovering Pb in the slag, not the fumes. Claim 12 does not recite "recovering" but "valorizing." The claim does not provide any limitation on the value of the Pb/Zn or how it is to be used. That the metals in Player et al are "recovered in the slag [emphasis added] (declaration paragraph #13) does not distinguish the disclosure from the claim. Applicant also does not claim separating the Pb or Zn from the flash or bath fuming steps. Applicant also argues that "valorizing ... means something more than merely recycling the fumes ... to the furnace." However, there is no evidence that valorizing means anything other than how it has been defined in *The American Heritage Dictionary of the English Language*. Claim 12 is broad enough to be read by Player et al, since Player et al is using the metal fumes to achieve a goal, which is to recover metals in the slag.

Allowable Subject Matter

Claims 13, 14, 17, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: regarding Claims 13 and 14, Player et al does not teach using a neutral leach residue or a weak acid leach residue as in Claim 13. Regarding Claim 17 and 18, the reasons were set forth in the office action mailed 11/4/2009. Regarding Claim 20, Player et al does not teach using a plasma furnace.

Response to Arguments

Applicant's arguments with respect to Fugleberg have been fully considered and are persuasive. The rejection of Claims 12-15 and 19 has been withdrawn.

Applicant's arguments with respect to Player et al have been fully considered but they are not persuasive. The arguments are addressed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMA M. MCGUTHRY-BANKS whose telephone number is (571)272-2744. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Wyszomierski/
Primary Examiner
Art Unit 1793

/T. M. M./
Examiner, Art Unit 1793
20 February 2010